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Attorneys for Defendant  
Donald Wayman

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

SELAH ALLIANCE FOR EQUALITY,  
COURTNEY HERNANDEZ, REV.  
DONALD DAVIS JR., LAURA PEREZ,  
ANITA CALLIHAN, KALAH JAMES,  
CHARLOTTE TOWN, AMANDA  
WATSON, and ANNA WHITLOCK,

Plaintiffs,

vs.

CITY OF SELAH; SHERRY  
RAYMOND, in her official capacity as  
Mayor of the City of Selah; and DONALD  
WAYMAN, in his official capacity as City  
Administrator for the City of Selah,

Defendants.

Case No. 1:20-cv-3228

DEFENDANT DONALD  
WAYMAN'S ANSWER TO  
PLAINTIFFS' FIRST  
AMENDED COMPLAINT

COMES NOW Defendant Donald Wayman by and through his  
undersigned counsel, Kirk A. Ehlis of Menke Jackson Beyer, LLP, and

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 1**

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1  
2  
3 answers Plaintiffs' First Amended Complaint (ECF No. 25-2) as follows:

4 **I. INTRODUCTION**

5  
6 1. In answering the allegations contained in the first three  
7 sentences of paragraph 1 of plaintiffs' First Amended Complaint ("FAC"),  
8 defendant Wayman responds that such sentences do not contain allegations  
9 of fact relevant to this case and therefore no response is required. To the  
10 extent any allegations of fact are contained in said sentences they are denied.  
11 Defendant Wayman denies the remaining allegations contained within said  
12 paragraph.  
13

14  
15 2. In answering the allegations contained in the second paragraph  
16 of plaintiffs' FAC, defendant Wayman responds that such paragraph does  
17 not contain allegations of fact relevant to this case and therefore no response  
18 is required. To the extent any allegations of fact are contained in said  
19 paragraph they are denied.  
20

21  
22 3. Defendant Wayman denies the allegations contained in  
23 paragraph 3 of plaintiffs' FAC.  
24

25 4. Defendant Wayman denies the allegations contained in  
26 paragraph 4 of plaintiffs' FAC.  
27

28 5. In answering the allegations contained in paragraph 5 of

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 2**

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1  
2  
3 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
4 information or belief to admit or deny said allegations and therefore denies  
5 the same.  
6

7         6. In answering the allegations contained in paragraph 6 of  
8 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
9 information or belief to admit or deny said allegations and therefore denies  
10 the same.  
11

12         7. Defendant Wayman admits the allegations contained in  
13 paragraph 7 of plaintiffs' FAC.  
14

15         8. Defendant Wayman denies the allegations contained in  
16 paragraph 8 of plaintiffs' FAC.  
17

18         9. In answering the allegations contained in paragraph 9 of  
19 plaintiffs' FAC, defendant Wayman responds that such paragraph does not  
20 contain allegations of fact relevant to this case and therefore no response is  
21 required. To the extent any allegations of fact are contained in said  
22 paragraph they are denied.  
23  
24

25         10. Defendant Wayman denies the allegations contained in  
26 paragraph 10 of plaintiffs' FAC.  
27

28         11. Defendant Wayman denies the allegations contained in

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 3**

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paragraph 11 of plaintiffs' FAC.

12. Defendant Wayman denies the allegations contained in paragraph 12 of plaintiffs' FAC.

13. Defendant Wayman denies the allegations contained in paragraph 13 of plaintiffs' FAC.

## II. PARTIES

14. In answering the allegations contained in paragraph 14 of plaintiffs' FAC, Defendant Wayman responds that he is without sufficient information or belief to admit or deny said allegations and therefore denies the same.

15. In answering the allegations contained in paragraph 15 of plaintiffs' FAC, defendant Wayman responds that such paragraph does not contain allegations of fact relevant to this case and therefore no response is required. To the extent any allegations of fact are contained in said paragraph they are denied.

16. In answering the allegations contained in paragraph 16 of plaintiffs' FAC, Defendant Wayman responds that he is without sufficient information or belief to admit or deny said allegations and therefore denies the same.

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 4**

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17. In answering the allegations contained in first, fourth, fifth, sixth and seventh sentences of paragraph 17 of plaintiffs' FAC, Defendant Wayman responds that he is without sufficient information or belief to admit or deny said allegations and therefore denies the same. Defendant Wayman denies the remaining allegations contained in said paragraph.

18. In answering the allegations contained in paragraph 18 of plaintiffs' FAC, Defendant Wayman responds that he is without sufficient information or belief to admit or deny said allegations and therefore denies the same.

19. In answering the allegations contained in paragraph 19 of plaintiffs' FAC, Defendant Wayman responds that he is without sufficient information or belief to admit or deny said allegations and therefore denies the same. Defendant Wayman expressly denies the allegation that the City was determined to quash messages of equality.

20. In answering the allegations contained in paragraph 20 of plaintiffs' FAC, Defendant Wayman responds that he is without sufficient information or belief to admit or deny said allegations and therefore denies the same.

21. In answering the allegations contained in paragraph 21 of

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 5**

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1  
2  
3 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
4 information or belief to admit or deny said allegations and therefore denies  
5 the same. Defendant Wayman expressly denies allegation that the City  
6 attempted to silence S.A.F.E. and/or eliminate messages in support of racial  
7 equality.  
8  
9

10 22. In answering the allegations contained in paragraph 22 of  
11 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
12 information or belief to admit or deny said allegations and therefore denies  
13 the same.  
14

15 23. In answering the allegations contained in paragraph 23 of  
16 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
17 information or belief to admit or deny said allegations and therefore denies  
18 the same.  
19  
20

21 24. Defendant Wayman admits the allegations contained in  
22 paragraph 24 of plaintiffs' FAC.  
23

24 25. Defendant Wayman admits the allegations contained in  
25 paragraph 25 of plaintiffs' FAC.  
26

27 26. Although he is no longer the City Administrator, Defendant  
28 Wayman admits the allegations contained in paragraph 26 of plaintiffs'

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 6**

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FAC.

### III. JURISDICTION AND VENUE

27. In answering paragraph 27 of plaintiffs' FAC, Defendant Wayman responds that this Court has subject matter jurisdiction to hear this case. However, defendant Wayman expressly denies that any deprivation of rights occurred.

28. Defendant Wayman admits the allegations contained in paragraph 28 of plaintiffs' FAC.

29. In answering paragraph 29 of plaintiffs' FAC, Defendant Wayman responds that the United States District Court for the Eastern District of Washington is the proper venue for this action. However, defendant Wayman expressly denies that the events occurred as described in plaintiffs' FAC or that such events give rise to legal liability.

### IV. FACTS

30. In answering the allegations contained in paragraph 30 of plaintiffs' FAC, defendant Wayman responds that such paragraph does not contain allegations of fact relevant to this case and therefore no response is required. To the extent any allegations of fact are contained in said paragraph they are denied.

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 7**

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2  
3 31. In answering the allegations contained in paragraph 30 of  
4 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
5 information or belief to admit or deny said allegations and therefore denies  
6 the same.  
7

8  
9 32. Defendant Wayman denies the allegations contained in  
10 paragraph 32 of plaintiffs' FAC.

11 33. Defendant Wayman denies the allegations contained in  
12 paragraph 33 of plaintiffs' FAC.  
13

14 34. Defendant Wayman denies the allegations contained in  
15 paragraph 34 of plaintiffs' FAC.  
16

17 35. Defendant Wayman denies the allegations contained in  
18 paragraph 35 of plaintiffs' FAC.

19 36. Defendant Wayman denies the allegations contained in  
20 paragraph 36 of plaintiffs' FAC.  
21

22 37. Defendant Wayman denies the allegations contained in  
23 paragraph 37 of plaintiffs' FAC.  
24

25 38. In answering the allegations contained in paragraph 38 of  
26 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
27 information or belief to admit or deny said allegations and therefore denies  
28

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 8**

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1  
2  
3 the same.

4 39. Defendant Wayman denies the allegations contained in  
5  
6 paragraph 39 of plaintiffs' FAC.

7 40. In answering the allegations contained in paragraph 40 of  
8  
9 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
10 information or belief to admit or deny said allegations and therefore denies  
11 the same.

12 41. In answering the allegations contained in paragraph 41 of  
13  
14 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
15 information or belief to admit or deny said allegations and therefore denies  
16 the same.

17 42. In answering the allegations contained in paragraph 42 of  
18  
19 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
20 information or belief to admit or deny said allegations and therefore denies  
21 the same.

22 43. In answering the allegations contained in paragraph 43 of  
23  
24 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
25 information or belief to admit or deny said allegations and therefore denies  
26 the same.

27  
28  
29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 9**

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1  
2  
3 44. In answering the allegations contained in paragraph 44 of  
4 plaintiffs' FAC, Defendant Wayman responds that he is without sufficient  
5 information or belief to admit or deny said allegations and therefore denies  
6 the same.  
7

8 45. Defendant Wayman denies the allegations contained in  
9 paragraph 45 of plaintiffs' FAC.  
10

11 46. Defendant Wayman denies the allegations contained in  
12 paragraph 46 of plaintiffs' FAC.  
13

14 47. Defendant Wayman admits the allegations contained in  
15 paragraph 47 of plaintiffs' FAC.  
16

17 48. Defendant Wayman admits the allegations contained in  
18 paragraph 48 of plaintiffs' FAC.  
19

20 49. Defendant Wayman denies the allegations contained in  
21 paragraph 49 of plaintiffs' FAC.  
22

23 50. Defendant Wayman denies the allegations contained in  
24 paragraph 50 of plaintiffs' FAC.  
25

26 51. Defendant Wayman denies the allegations contained in  
27 paragraph 51 of plaintiffs' FAC.  
28

29 52. Defendant Wayman admits the allegations contained in  
30

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 10**

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paragraph 52 of plaintiffs' FAC.

53. Defendant Wayman denies the allegations contained in paragraph 53 of plaintiffs' FAC..

54. Defendant Wayman admits the allegations contained in paragraph 54 of plaintiffs' FAC.

55. Defendant Wayman denies the allegations contained in paragraph 55 of plaintiffs' FAC.

56. Defendant Wayman denies the allegations contained in paragraph 56 of plaintiffs' FAC.

57. Defendant Wayman denies the allegations contained in paragraph 57 of plaintiffs' FAC.

58. Defendant Wayman admits the allegations contained in paragraph 58 of plaintiffs' FAC.

59. Defendant Wayman denies the allegations contained in paragraph 59 of plaintiffs' FAC.

60. Defendant Wayman admits the allegations contained in paragraph 60 of plaintiffs' FAC.

61. Defendant Wayman admits the allegations contained in paragraph 61 of plaintiffs' FAC.

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 11**

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62. Defendant Wayman admits the allegations contained in paragraph 62 of plaintiffs' FAC.

63. Defendant Wayman admits the allegations contained in paragraph 63 of plaintiffs' FAC.

64. In answering the allegations contained in paragraph 64 of plaintiffs' FAC, Defendant Wayman responds that he is without sufficient information or belief to admit or deny said allegations and therefore denies the same.

65. Defendant Wayman denies the allegations contained in paragraph 65 of plaintiffs' FAC.

66. Defendant Wayman denies the allegations contained in paragraph 66 of plaintiffs' FAC.

67. Defendant Wayman denies the allegations contained in paragraph 67 of plaintiffs' FAC.

68. Defendant Wayman denies the allegations contained in paragraph 68 of plaintiffs' FAC.

69. Defendant Wayman denies the allegations contained in paragraph 69 of plaintiffs' FAC.

70. Defendant Wayman admits the allegations contained in the first

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 12**

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1  
2  
3 sentence of paragraph 70 of plaintiffs' FAC and denies the allegations  
4 contained in the second sentence thereof.

5  
6 71. Defendant Wayman denies the allegations contained in  
7 paragraph 71 of plaintiffs' FAC.

8  
9 72. In answering the allegations contained in paragraph 72 of  
10 plaintiffs' FAC, defendant Wayman responds that Mayor Raymond and  
11 certain City Council members met with individuals purported to be affiliated  
12 with S.A.F.E. on several occasions. Defendant Wayman denies the  
13 remaining allegations contained in said paragraph.  
14

15 73. In answering the allegations contained in paragraph 73 of  
16 plaintiffs' FAC, defendant Wayman admits that plaintiffs' counsel sent a  
17 letter dated July 7, 2020 to the Selah City Attorney, which letter speaks for  
18 itself. Defendant Wayman denies the remaining allegations contained in  
19 said paragraph.  
20

21  
22 74. Defendant Wayman denies the allegations contained in  
23 paragraph 74 of plaintiffs' FAC.  
24

25 75. In answering the allegations contained in paragraph 75 of  
26 plaintiffs' FAC, defendant Wayman admits that plaintiffs' counsel sent a  
27 letter dated October 14, 2020 to the Selah City Attorney, which letter speaks  
28

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 13**

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1  
2  
3 for itself. Defendant Wayman denies the remaining allegations contained in  
4 said paragraph.

5  
6 76. In answering the allegations contained in paragraph 76 of  
7 plaintiffs' FAC, defendant Wayman admits that plaintiffs' counsel sent a  
8 letter dated October 14, 2020 to the Selah City Attorney, which letter speaks  
9 for itself. Defendant Wayman denies the remaining allegations contained in  
10 said paragraph.  
11

12  
13 77. In answering the allegations contained in paragraph 77 of  
14 plaintiffs' FAC, defendant Wayman admits that plaintiffs' counsel sent a  
15 letter dated October 14, 2020 to the Selah City Attorney, which letter speaks  
16 for itself. Defendant Wayman denies the remaining allegations contained in  
17 said paragraph.  
18

19  
20 78. In answering the allegations contained in paragraph 78 of  
21 plaintiffs' FAC, defendant Wayman admits that plaintiffs' counsel sent a  
22 letter dated October 14, 2020 to the Selah City Attorney, which letter speaks  
23 for itself. Defendant Wayman denies the remaining allegations contained in  
24 said paragraph.  
25

26  
27 79. In answering the allegations contained in paragraph 79 of  
28 plaintiffs' FAC, defendant Wayman admits that plaintiffs' counsel sent a

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 14**

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1  
2  
3 letter dated October 14, 2020 to the Selah City Attorney, which letter speaks  
4 for itself. Defendant Wayman denies the remaining allegations contained in  
5 said paragraph.  
6

7 80. In answering the allegations contained in paragraph 80 of  
8 plaintiffs' FAC, defendant Wayman admits that plaintiffs' counsel sent a  
9 letter dated October 14, 2020 to the Selah City Attorney, which letter speaks  
10 for itself. Defendant Wayman denies the remaining allegations contained in  
11 said paragraph.  
12

13  
14 81. In answering the allegations contained in paragraph 81 of  
15 plaintiffs' FAC, defendant Wayman admits that the City's attorney directed  
16 City personnel to cease removing S.A.F.E.'s signs for the remainder of the  
17 2020 campaign season. Defendant Wayman denies the remaining  
18 allegations contained in said paragraph.  
19

20  
21 82. Defendant Wayman denies the allegations contained in  
22 paragraph 82 of plaintiffs' FAC.  
23

24 83. Defendant Wayman denies the allegations contained in  
25 paragraph 83 of plaintiffs' FAC.  
26

27 84. In answering the allegations contained in paragraph 84 of  
28 plaintiffs' FAC, defendant Wayman admits that the City has stopped issuing

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 15**

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permits in light of the court's preliminary ruling on the Plaintiffs' Motion for Preliminary Injunction and that, until the court's ruling the City had removed signs from Selah's public rights-of-way pursuant to SMC 10.38.100, and that the signs removed from the public right-of-way included S.A.F.E. signs. Defendant Wayman denies the remaining allegations contained in said paragraph.

85. Defendant Wayman admits the allegations contained in paragraph 85 of plaintiffs' FAC.

86. In answering paragraph 86 of plaintiffs FAC, defendant Wayman admits that he paid no compensation to S.A.F.E. Defendant Wayman denies the remaining allegations contained in said paragraph.

87. Defendant Wayman denies the allegations contained in paragraph 87 of plaintiffs' FAC.

## **V. FIRST CAUSE OF ACTION**

### **Violation of the First Amendment, United States Constitution**

**(42 U.S.C. 1983 Defendant City of Selah)**

#### **Facial Violation**

88. Defendant Wayman incorporates by reference the admissions and denials of all preceding paragraphs as if fully set forth herein.

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 16**

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89. Defendant Wayman denies the allegations contained in paragraph 89 of plaintiffs' FAC.

90. Defendant Wayman denies the allegations contained in paragraph 90 of plaintiffs' FAC.

91. Defendant Wayman denies the allegations contained in paragraph 91 of plaintiffs' FAC.

92. Defendant Wayman denies the allegations contained in paragraph 92 of plaintiffs' FAC.

93. Defendant Wayman admits the allegations contained in paragraph 93 of plaintiffs' FAC.

94. Defendant Wayman admits the allegations contained in paragraph 94 of plaintiffs' FAC.

95. Defendant Wayman admits the allegations contained in paragraph 95 of plaintiffs' FAC.

96. Defendant Wayman denies the allegations contained in paragraph 96 of plaintiffs' FAC.

97. Defendant Wayman denies the allegations contained in paragraph 97 of plaintiffs' FAC.

98. Defendant Wayman denies the allegations contained in

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 17**

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paragraph 98 of plaintiffs' FAC.

99. Defendant Wayman denies the allegations contained in paragraph 99 of plaintiffs' FAC.

100. Defendant Wayman denies the allegations contained in paragraph 100 of plaintiffs' FAC.

101. Defendant Wayman denies the allegations contained in paragraph 101 of plaintiffs' FAC.

102. Defendant Wayman denies the allegations contained in paragraph 102 of plaintiffs' FAC.

103. Defendant Wayman denies the allegations contained in paragraph 103 of plaintiffs' FAC.

104. Defendant Wayman denies the allegations contained in paragraph 104 of plaintiffs' FAC.

## **VI. SECOND CAUSE OF ACTION**

### ***Violation of the First and Fourteenth Amendments***

#### ***United States Constitution***

***(42 U.S.C. 1983 Defendants Selah, Raymond, and Wayman)***

#### **Selective Enforcement**

105. Defendant Wayman incorporates by reference the admissions

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 18**

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and denials of all preceding paragraphs as if fully set forth herein.

106. Defendant Wayman denies the allegations contained in paragraph 106 of plaintiffs' FAC.

107. Defendant Wayman denies the allegations contained in paragraph 107 of plaintiffs' FAC.

108. Defendant Wayman denies the allegations contained in paragraph 108 of plaintiffs' FAC.

109. Defendant Wayman denies the allegations contained in paragraph 109 of plaintiffs' FAC.

110. Defendant Wayman denies the allegations contained in paragraph 110 of plaintiffs' FAC.

111. Defendant Wayman denies the allegations contained in paragraph 111 of plaintiffs' FAC.

112. Defendant Wayman denies the allegations contained in paragraph 112 of plaintiffs' FAC.

## **VII. THIRD CAUSE OF ACTION**

### ***Violation of the First Amendment, United States Constitution***

#### ***(42 U.S.C. 1983 Defendants Selah, Raymond, and Wayman)***

#### **Retaliation**

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 19**

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113. Defendant Wayman incorporates by reference the admissions and denials of all preceding paragraphs as if fully set forth herein.

114. Defendant Wayman denies the allegations contained in paragraph 114 of plaintiffs' FAC.

115. Defendant Wayman denies the allegations contained in paragraph 115 of plaintiffs' FAC.

116. Defendant Wayman denies the allegations contained in paragraph 116 of plaintiffs' FAC.

117. Defendant Wayman denies the allegations contained in paragraph 117 of plaintiffs' FAC.

118. Defendant Wayman denies the allegations contained in paragraph 118 of plaintiffs' FAC.

119. Defendant Wayman denies the allegations contained in paragraph 119 of plaintiffs' FAC.

120. Defendant Wayman denies the allegations contained in paragraph 120 of plaintiffs' FAC.

## VIII. FOURTH CAUSE OF ACTION

### *Violation of Article I, Section 5, Washington State Constitution*

#### *(Defendants City of Selah, Raymond, and Wayman)*

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 20**

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**Facial Violation**

121. Defendant Wayman incorporates by reference the admissions and denials of all preceding paragraphs as if fully set forth herein.

122. Defendant Wayman denies the allegations contained in paragraph 122 of plaintiffs' FAC.

123. Defendant Wayman denies the allegations contained in paragraph 123 of plaintiffs' FAC.

124. Defendant Wayman denies the allegations contained in paragraph 124 of plaintiffs' FAC.

125. Defendant Wayman denies the allegations contained in paragraph 125 of plaintiffs' FAC.

126. Defendant Wayman denies the allegations contained in paragraph 126 of plaintiffs' FAC.

127. Defendant Wayman denies the allegations contained in paragraph 127 of plaintiffs' FAC.

128. Defendant Wayman admits the allegations contained in paragraph 128 of plaintiffs' FAC.

129. Defendant Wayman denies the allegations contained in paragraph 129 of plaintiffs' FAC.

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 21**

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1  
2  
3 130. In answering the allegations contained in paragraph 130 of  
4 plaintiffs' FAC, defendant Wayman responds that such paragraph contains  
5 legal conclusions and not allegations of fact relevant to this case, therefore  
6 no response is required. To the extent any allegations of fact are contained  
7 in said paragraph they are denied.  
8  
9

10 131. In answering the allegations contained in paragraph 131 of  
11 plaintiffs' FAC, defendant Wayman responds that such paragraph contains  
12 legal conclusions and not allegations of fact relevant to this case, therefore  
13 no response is required. To the extent any allegations of fact are contained  
14 in said paragraph they are denied.  
15  
16

17 132. In answering the allegations contained in paragraph 132 of  
18 plaintiffs' FAC, defendant Wayman responds that such paragraph contains  
19 legal conclusions and not allegations of fact relevant to this case, therefore  
20 no response is required. To the extent any allegations of fact are contained  
21 in said paragraph they are denied.  
22  
23

24 133. In answering the allegations contained in paragraph 133 of  
25 plaintiffs' FAC, defendant Wayman responds that such paragraph contains  
26 legal conclusions and not allegations of fact relevant to this case, therefore  
27 no response is required. To the extent any allegations of fact are contained  
28

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 22**

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1  
2  
3 in said paragraph they are denied.

4 134. In answering the allegations contained in paragraph 134 of  
5 plaintiffs' FAC, defendant Wayman responds that such paragraph contains  
6 legal conclusions and not allegations of fact relevant to this case, therefore  
7 no response is required. To the extent any allegations of fact are contained  
8 in said paragraph they are denied.  
9  
10

11 135. Defendant Wayman denies the allegations contained in  
12 paragraph 135 of plaintiffs' FAC.  
13

#### 14 **IX. FIFTH CAUSE OF ACTION**

##### 15 *Violation of Article I, Section 5, Washington State Constitution*

##### 16 *(Defendants City of Selah, Raymond, and Wayman)*

17  
18 136. Defendant Wayman incorporates by reference the admissions  
19 and denials of all preceding paragraphs as if fully set forth herein.  
20

21 137. Defendant Wayman admits the allegations contained in  
22 paragraph 137 of plaintiffs' FAC.

23 138. Defendant Wayman denies the allegations contained in  
24 paragraph 138 of plaintiffs' FAC.  
25

26 139. Defendant Wayman denies the allegations contained in  
27 paragraph 139 of plaintiffs' FAC.  
28

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 23**

**MENKE JACKSON BEYER, LLP**  
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140. Defendant Wayman denies the allegations contained in paragraph 140 of plaintiffs' FAC.

141. Defendant Wayman denies the allegations contained in paragraph 141 of plaintiffs' FAC.

142. Defendant Wayman denies the allegations contained in paragraph 142 of plaintiffs' FAC.

**ALL ALLEGATIONS NOT EXPRESSLY ADMITTED ARE DENIED**

**AFFIRMATIVE DEFENSES**

Defendant Wayman asserts by way of affirmative defenses the following:

1. Plaintiffs have failed to state a claim upon which relief can be granted.
2. Plaintiffs lack standing.
3. All conduct alleged by the plaintiffs was lawful and the defendants are immune from liability under the doctrines of absolute, qualified, discretionary, and/or legislative immunity.

**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 24**

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2  
3 4. The plaintiffs' damages, if any, were caused by a third party  
4 over whom the defendants exercised no control or right to control.  
5

6 5. The defendants owed no duty to plaintiffs, and its claims are  
7 barred by the public duty doctrine.  
8

9 6. That some or all of plaintiff's claims are barred by res judicata,  
10 collateral estoppel and/or waiver.  
11

12 7. That plaintiffs' claim for declaratory relief is moot and  
13 improper because plaintiffs have an adequate remedy at law.  
14

15 8. That the injunctive relief requested by plaintiffs is improper  
16 because plaintiffs have an adequate remedy at law and because no plaintiff  
17 has demonstrated the likelihood of substantial and immediate irreparable  
18 injury in the future.  
19

### 20 PRAYER FOR RELIEF

21 Defendant Wayman requests the following relief:

- 22 1. Plaintiffs' complaint be dismissed with prejudice;  
23  
24 2. Plaintiffs be awarded nothing;  
25  
26 3. Defendant Wayman be awarded his reasonable attorney's fees  
27 and costs pursuant to applicable statute, case law or recognized ground in  
28 equity for litigating this matter; and

29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 25**

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1  
2  
3 4. For such other and further relief as the court deems just and  
4 equitable under the circumstances.  
5

6 DATED this 26<sup>th</sup> day of July, 2021.  
7

8 By: /s/ Kirk A. Ehlis

9 KIRK A. EHLIS, WSBA #22908

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16 *Attorneys for Defendant Donald Wayman*  
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29 **ANSWER OF DEFENDANT DONALD**  
30 **WAYMAN TO PLAINTIFFS' FIRST**  
**AMENDED COMPLAINT- 26**

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 26, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System which will effectuate service of a copy of such filing to the following counsel/parties of record:

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**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 27**

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and I hereby certify that I have mailed by United States Postal Service the  
document to the following non-CM/ECF participants:

None

DATED this 26th day of July, 2021.

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**ANSWER OF DEFENDANT DONALD  
WAYMAN TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT- 28**

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